THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15942 OF 1997

Date: 7th February, 2007

Between:

A.R.Nadhan S/o.Nadhan,
Conductor, APSRTC, Ranigunj Depot-I,
C/o.V.Mallik, Advocate,
Hyderabad.

..... Petitioner

AND

1.The Presiding Officer, Labour Court-III,
Hyderabad.
2.The Depot Manager, APSRTC, Ranigunj Depot-I,
Secunderabad.

.....Respondents

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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ORDER:

Aggrieved by the award of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D.No.86 of 1994, dated 26.10.1995, whereby the respondents were directed to appoint the petitioner as a fresh conductor and it was held that the petitioner was entitled for wages as a fresh conductor, the present writ petition is filed.

2. Facts, to the extent necessary, are that on 23.10.1993, while the petitioner was conducting the bus in the second shift, the bus was checked at stage No.1, Charminar. Certain irregularities were found and the S.R. maintained by the petitioner etc. were seized. Petitioner submitted his spot explanation in Ex.M7. He was placed under suspension on 30.10.1993 and, thereafter, was issued a charge-sheet, wherein four charges were framed against him, which read as follows:

> "CHARGES: (1) "For having failed to observe the TIC point" which constitutes misconduct under Regulation 28(xxxii) of APSRTC Employees' (Conduct) Regulations, 1963.
> (2) "for having failed to collect fare and issue ticket to a lady passenger found alighting without ticket who boarded the bus at Madina and bound for Charminar Ex-stages 2/1 to 1" which constitutes misconduct under Regulation 28(vi)(a) of APSRTC Employees' (Conduct) Regulations, 1963.
> (3) "For having issued tickets bearing Nos.115/913360 and 115/913361 of Rs.2.25 ps. denomination S.2 to the passengers found alighting at Charminar who boarded the bus at Bata from ex-stages 7 to 1" unpunched and unaccounted" which constitutes misconduct under regulation 28(vi)(a) of APSRTC Employees' (Conduct) Regulations, 1963.
> (4) "For having found three (3) tickets of Rs.1.25 ps. denomination S.3 in your cash bag unpunched and already accounted in the S.R. at stage No.4" which constitutes misconduct under Regulation 28(xxxii) of APSRTC Employees' (Conduct) Regulations, 1963."

Not being satisfied with the petitioner's explanation, an enquiry was ordered and petitioner was eventually removed from service by order dated 02.05.1994. The

appeal preferred by the petitioner was rejected by order dated 17.07.1994. Aggrieved thereby, the petitioner invoked the jurisdiction of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad.

3. With regard to Charges 1 and 2, the Tribunal held that the petitioner's contention was false and that it was obvious that the petitioner wanted to collect the fare from the lady passenger and misappropriate Rs.0.75ps. to be paid by her as she was traveling for hardly two furlongs from Madina to Charminar and he did not expect a check then. With regard to Charges 3 and 4, the Tribunal found petitioner's explanation absurd and held that his explanation was not satisfactory. The Tribunal observed that the petitioner has violated the regulations by not punching and not accounting for the tickets in the S.R. and keeping the unpunched tickets, accounted for in S.R., with him. The Tribunal held that the petitioner had issued these tickets without punching and accounting for them with an intention to collect them back and to re-issue them later, that he had actually collected and put them in his cash bag with an intention of re-issuing them in the return journey and appropriating the proceeds and that, similarly, he had issued two tickets of Rs.2.75 ps. denomination unpunched without accounting for them in the S.R.

only with an intention to collect them back and re-issue them in the return journey. The Tribunal relied on a judgment of this Court in *P.Balachandra Reddy v. The Depot Manager, APSRTC, Ananthapur and others (1994(1) ALT 208)* and directed the respondents to appoint the petitioner as a fresh conductor.

4. *Sri V.Mallik*, learned counsel for the petitioner, submits that the respondent-Corporation has not challenged the award, that the petitioner has been appointed as a fresh conductor and is working as such with the respondent-Corporation. Learned counsel would seek to make submission on merits to contend that the charges levelled against the petitioner had not been established. Learned counsel would submit that even if the charges were held to be established, the petitioner has been denied his entire previous service in being treated as a fresh conductor. He would contend that the punishment imposed was shockingly disproportionate to the charges held established against the petitioner.

5. It is well settled that this Court, in Certiorari proceedings, does not sit in appeal over the findings recorded by the Tribunal nor does it re-appreciate the evidence on record or substitute its own findings for that of the Tribunal. It is only when the findings arrived at by the Tribunal are found to be perverse, or

as based on no evidence, would this Court interfere in the matter. The charges framed and held established against the petitioner are based on the evidence on record. The Labour Court, under Section 11-A of the Industrial Tribunal Act, 1947, (for short, 'the Act'), has not only been conferred the power to re-appreciate the evidence on record, but also, to interfere with the quantum of punishment imposed. In exercise of its jurisdiction under Section 11-A of the Act, the Tribunal, while holding that the charges were established based on the evidence on record, substituted the punishment of removal from service to that of a fresh appointment. In Certiorari jurisdiction under Article 226 of the Constitution of India, this Court would not, ordinarily, interfere with the quantum of punishment or substitute the punishment awarded by the Tribunal with another. It is only when the punishment imposed is found to be one which could not have been imposed at all or one which shocks its conscience would this Court interfere. The charges levelled against the petitioner were held to have been established. Even though the amount involved is small, it is a case of misappropriation of the amounts legitimately due to the respondent-Corporation, and failure to discharge the duties of a conductor. For the charges held established against the petitioner it cannot be said that the punishment

awarded by the Tribunal, in directing the respondents to appoint the petitioner as a fresh conductor, thus, in effect, denying him the benefit of his past service, is a punishment which could not have been imposed at all or is one which shocks the conscience of this Court. I see no reason to interfere with the award of the Tribunal.

6. The writ petition fails and is, accordingly, dismissed. However, in the circumstances, without costs.

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RAMESH RANGANATHAN, J.

Date:07th February, 2007.

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